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On

TOWNSEND and TOWNSEND and CREW LLP

By:

PATENT

Attorney Docket No.: 18941H-002911US

Client Ref. No.: B98-006-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

GOODMAN *et al.*

Application No.: 10/826,812

Filed: April 16, 2004

For: ROBO: A NOVEL FAMILY OF
POLYPEPTIDES AND NUCLEIC
ACIDS

Customer No.: 20350

Confirmation No. 1573

Examiner: Olga N. Chernyshev

Technology Center/Art Unit: 1649

RESPONSE TO RESTRICTION
REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed November 2, 2006, Applicants respectfully request entry of the following remarks. Enclosed herewith is a petition with a fee authorization for a one-month extension of time.

In response to the restriction requirement, Applicants elect Group I, claims 10-19, drawn to an antibody to a polypeptide of SEQ ID NO:8.

In response to the requirement to elect a species that is a fragment comprised by a polypeptide of SEQ ID NO:8 or SEQ ID NO:10, Applicants elect a first immunoglobulin

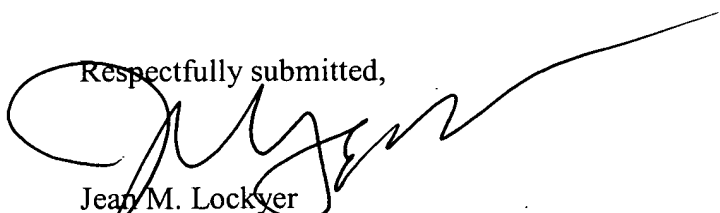
domain, *e.g.*, residues 68-167 of SEQ ID NO:8. The claims of the elected group that read on the elected species are claims 10-19.

The foregoing election is made with traverse, in part. According to the MPEP, where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. (See, the MPEP at 803.01.) In establishing that an "undue burden" would exist for co-examination of claims, the Examiner must show that examination of the claims would involve substantially different prior art searches, making the co-examination burdensome. Here, a search of the subject matter of elected Group I would likely encompass the subject matter of Groups VII, IX, and XI. Accordingly, these groups could be searched together without undue burden. Applicants therefore respectfully request reconsideration of the restriction requirement.

With regard to the species election requirement, as the Examiner noted, claim 10 is generic to the species set forth by the Examiner. Applicants are entitled to consideration of additional species upon allowance of a generic claim.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


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